

Assembly Joint Resolution

No. 26

Introduced by Assembly Member Weber

(Principal coauthors: Senators Hall and Mitchell)

**(Coauthors: Assembly Members Alejo, Brown, Burke, Cooper,
Eggman, Cristina Garcia, Gipson, Gonzalez, Holden,
Jones-Sawyer, McCarty, Ridley-Thomas, and Thurmond)**

(Coauthor: Senator Glazer)

June 30, 2015

Assembly Joint Resolution No. 26—Relative to the Confederate flag and symbols.

LEGISLATIVE COUNSEL'S DIGEST

AJR 26, as introduced, Weber. Removal of the Confederate flag and symbols.

This measure would, among other things, memorialize the President and Congress of the United States to ban the sale or display of the Confederate flag on public property and to ban the use of Confederate States of America symbolism from state symbols, and would encourage the donation of Confederate artifacts to museums.

Fiscal committee: no.

1 WHEREAS, According to the 1860 United States Census, the
2 United States population was 31,443,321. The total number of
3 slaves in the Lower South was 2,312,352 comprising 47 percent
4 of total population and the total number of slaves in the Upper
5 South was 1,208,758 comprising 29 percent of total population;
6 and

1 WHEREAS, South Carolina had a clear Black majority from
2 about 1,708 through most of the 18th century. By 1720, there were
3 approximately 18,000 people living in South Carolina and 65
4 percent of those were African American slaves. South Carolina's
5 slave population grew to match the success of its rice culture.
6 Whereas in 1790, there were slightly more Whites than Blacks,
7 with 140,178 White and 108,896 Black, living in South Carolina.
8 By 1860 the black population had grown, with 291,300 White and
9 412,320 Black, to more than double of the white population; and

10 WHEREAS, The Southern United States, including the States
11 of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi,
12 North Carolina, Texas, West Virginia, Virginia, and South Carolina
13 seceded from the greater union in 1860 to join the Confederate
14 States of America under President Jefferson Davis and General
15 Robert E. Lee; and

16 WHEREAS, The symbolism of the Confederate flag when the
17 states seceded in 1860 represented, in its personification, secession
18 and treason; and

19 WHEREAS, The first official national flag of the Confederacy,
20 often called the Stars and Bars, was flown from March 4, 1861,
21 to May 1, 1863, inclusive. The Stars and Bars flag was adopted
22 March 4, 1861, in the first temporary national capital of
23 Montgomery, Alabama, and was raised over the dome of that first
24 Confederate Capitol; and

25 WHEREAS, At the First Battle of Manassas, the first battle of
26 the Civil War, the similarity between the Stars and Bars and the
27 Stars and Stripes caused confusion and military problems.
28 Regiments carried flags to help commanders observe and assess
29 battles in the warfare of the era. At a distance, the two national
30 flags were hard to tell apart. In addition, Confederate regiments
31 carried many other flags, which added to the possibility of
32 confusion; and

33 WHEREAS, After the battle, General Pierre Gustave Toutant
34 Beauregard, a prominent general of the Confederate States Army
35 during the American Civil War, wrote that he was resolved then
36 to have the Confederate flag changed if possible, or to adopt for
37 his command a "battle flag," the Stars and Bars, that would be
38 entirely different from any state or federal flag. His aide William
39 Porcher Miles, the former chair of the Committee on the Flag and
40 Seal, described his rejected national flag design to Beauregard.

1 Miles also told the Committee on the Flag and Seal about the
2 general's complaints and request for the national flag to be
3 changed. The committee rejected this idea by a four to one vote,
4 after which Beauregard proposed the idea of having two flags. He
5 described the idea in a letter to his commander General Joseph E.
6 Johnston: "How would it do us to address the War Department on
7 the subject of Regimental or badge flags made of red with two
8 blue bars crossing each other diagonally on which shall be
9 introduced the stars, ... We would then on the field of battle know
10 our friends from our enemies"; and

11 WHEREAS, Although the soldiers of the Confederacy were
12 never tried by the United States government after the Civil War,
13 Jefferson Davis and General Robert E. Lee were indicted and later
14 acquitted of all charges by President Andrew Jackson as he left
15 office in 1869; and

16 WHEREAS, After the Civil War ended, groups such as the Ku
17 Klux Klan were formed to promote White supremacy and racial
18 hatred. The Ku Klux Klan, perhaps the most infamous, was one
19 of the first groups to continue using the Confederate flag after the
20 war. The Ku Klux Klan rallied others still vexed after the war to
21 instill fear and spout hate against freed African Americans; and

22 WHEREAS, The flag was later resurrected in the 1950s to rally
23 resistance to the Civil Rights movement and support the South's
24 desire to maintain segregation and further the policies of Jim Crow;
25 and

26 WHEREAS, In South Carolina, the Confederate flag was moved
27 to the top of their State Capitol building in 1962, after President
28 John F. Kennedy called on the Congress of the United States to
29 end poll taxes and literacy tests for voting, and the United States
30 Supreme Court struck down segregation in public transportation;
31 and

32 WHEREAS, According to the Southern Poverty Law Center,
33 there are 788 "hate groups" in the United States. Of these, 57 are
34 located in the State of California, which is the highest of any state.
35 There are a total of 283 of these hate groups in the former
36 Confederate states. Nineteen of these hate groups reside in South
37 Carolina. Of these 19 hate groups, 16 use the Confederate flag as
38 one of their symbols. These hate groups include the Ku Klux Klan,
39 Neo-Nazis, and Neo-Confederates; and

1 WHEREAS, Whereas, African Americans make up 15.6 percent
2 of the population of the United States or 45 million people, in
3 2013, they were victims of 32.7 percent, or 14,715,000, of all hate
4 crimes in the United States, which is the highest number of any
5 group in America; and

6 WHEREAS, On June 17, 2015, Dylann Roof went to Emanuel
7 AME Church in Charleston, South Carolina, and opened fire during
8 a Wednesday bible study, killing nine of the church's attendees;
9 and

10 WHEREAS, Over the last five years, friends of Dylann Roof
11 had seen him become increasingly aligned with White Supremacist
12 ideologies. They observed his behavior becoming more fanatical
13 than that of the most notorious hate groups in his native South
14 Carolina. Dylann Roof believed that it was up to him to do the
15 work that other hate groups were failing to do. Dylann Roof
16 believed that African Americans were "stupid and violent" people
17 and viewed Hispanics and Latinos as the "enemy"; and

18 WHEREAS, Dylann Roof has been photographed on various
19 occasions with the same Confederate flag that many of these hate
20 groups proudly display; and

21 WHEREAS, Sixty-nine percent of those surveyed by Public
22 Policy Polling believe that the shooting attack at Emanuel AME
23 Church in Charleston, South Carolina, was a hate crime and 34
24 percent surveyed believe it was a form of terrorism; and

25 WHEREAS, Since the end of the Civil War, private and official
26 use of the Confederacy's flags, and of flags with derivative designs,
27 has continued and generated philosophical, political, cultural, and
28 racial controversy in the United States. These include flags
29 displayed in states, cities, towns, counties, schools, colleges,
30 universities, private organizations, associations, and by individuals;
31 and

32 WHEREAS, In some American states the Confederate flag is
33 given the same protection from burning and desecration as the
34 United States flag. It is protected from being publicly mutilated,
35 defiled, or otherwise cast in contempt by the laws of five states:
36 Florida, Georgia, Louisiana, Mississippi, and South Carolina.
37 However, laws banning the desecration of any flag, even if
38 technically remaining in effect, were ruled unconstitutional in 1989
39 by the United States Supreme Court in *Texas v. Johnson* and are
40 not enforceable; and

1 WHEREAS, In 2000, South Carolina passed a bill to remove
2 the Confederate flag from the top of the state house dome. It had
3 been placed there since the early 1960s by an all-White South
4 Carolina Legislature to mark the 100th anniversary of the Civil
5 War. The flag was moved to the north end of the state house as
6 part of a compromise. However, to this day, there have been
7 protests to have the flag removed from there as well; and

8 WHEREAS, To many groups, especially African Americans,
9 the Confederate flag is a symbol of hate, racism, exclusion,
10 oppression, and violence. Its symbolism and history is directly
11 linked to the enslavement, torture, and murder of millions of
12 African Americans; and

13 WHEREAS, Today, as in the past, public display of the
14 Confederate flag is believed to instill fear, intimidation and a direct
15 threat of violence towards others, though a minute number of
16 groups disagree, claiming that the Confederate flag commemorates
17 Southern heritage; and

18 WHEREAS, In 2014, the State of California, through the
19 enactment of Assembly Bill 2444, became the first state to ban the
20 state sale and display of the Confederate flag. The State of
21 California may not sell or display the Battle Flag of the
22 Confederacy, also referred to as the Stars and Bars, or any similar
23 image, or tangible personal property inscribed with that image
24 unless the image appears in a book, digital medium, or state
25 museum that serves an educational or historical purpose; and

26 WHEREAS, On June 22nd, 2015, Governor Nikki Haley of
27 South Carolina called upon her state to remove the Confederate
28 flag from the capitol grounds in the wake of the Emanuel AME
29 Church shooting; now, therefore, be it

30 *Resolved by the Assembly and the Senate of the State of*
31 *California, jointly*, That the Legislature of California encourages
32 the United States Congress to enact a ban on the sale and display
33 of the Confederate flag at all state capitols and federal, state, and
34 local government-owned property and buildings; and be it further

35 *Resolved*, That the Legislature encourages the United States
36 Congress to identify the states and their state flags that have the
37 Confederate symbol embedded into their state's flag and are using
38 the flag. Moreover, the Legislature encourages Congress to prohibit
39 these states from selling or displaying the Confederate flag at all
40 state capitols and other federal, state, and local government owned

1 properties and items, including drivers licenses, license plates, and
2 public buildings; and be it further

3 *Resolved*, That the Legislature encourages the United States
4 Congress to enact a ban on the use of the former Confederate States
5 of America symbolism and seals from all state symbols; and be it
6 further

7 *Resolved*, That the Legislature encourages the United States
8 Congress to encourage businesses located in the states that have
9 the Confederate symbols in their state flag to take them down; and
10 be it further

11 *Resolved*, That the Legislature encourages the donation of any
12 effects representing the former Confederate States of America to
13 local, state, and national museums; and be it further

14 *Resolved*, That the Chief Clerk of the Assembly transmit copies
15 of this resolution to the President and Vice President of the United
16 States, to the Speaker of the House of Representatives, to the
17 Minority Leader of the House of Representatives, to the Majority
18 Leader of the Senate, to the Minority Leader of the Senate, to each
19 Senator and Representative from California, and to the governors
20 of the southern states including Alabama, Arkansas, Florida,
21 Georgia, Louisiana, Mississippi, North Carolina, Texas, West
22 Virginia, Virginia, and South Carolina.